

EXHIBIT 10

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

-----x

L.E., by his next friends
And parents *

Plaintiff *

V. *

BILL LEE, in his official *
Capacity as Governor of *
Tennessee; PENNY SCHWINN, *
In her official capacity as *
The Tennessee Education *
Commissioner; TENNESSEE *
STATE BOARD OF EDUCATION; *
SARA HEYBURN MORRISON in *
Her official capacity as *
The executive Director of *
The Tennessee State Board *
Of Education; NICK DARNELL *
MIKE EDWARDS ROBERT EBY *
GORDON FERGUSON, ELISSA, *
KIM LILLIAN HARTGROVE, *
NATE MORROW, LARRY JENSEN *
DARRELL COBBINS, and EMILY *
HOUSE, the individual *
Members of the Tennessee *
State Board of Education, *
In their official *
Capacities; KNOX COUNTY *
BOARD OF EDUCATION a/k/a *
KNOX COUNTY SCHOOLS a/k/a *
KNOX COUNTY SCHOOL *
DISTRICT; ROBERT M. "BOB" *
THOMAS, in his Official *
Capacity as Director of *
Knox County Schools *

Defendants *

-----x

DEPOSITION OF DONALD DODGEN
APPEARING REMOTELY FROM
KNOXVILLE, TENNESSEE

July 28, 2022

10:30 a.m.

REPORTED BY:

Dawn L. Halcisak, CLR

APPEARING REMOTELY FROM CRISFIELD, MARYLAND

R E M O T E A P P E A R A N C E S

ON BEHALF OF PLAINTIFF KNOX COUNTY BOARD OF
EDUCATION AND BOB THOMAS:

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1 R E M O T E A P P E A R A N C E S (Cont'd.)

2
3 ON BEHALF OF L.E., by his next friends and
4 parents SHELLEY ESQUIVEL and MARIO ESQUIVEL
5 & ACLU OF TENNESSEE:

6 STELLA YARBROUGH, ESQUIRE (No. 33637)

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9 (615) 320-7142

10 syarborough@aclu-tn.org

11
12 ALSO PRESENT:

13 FOR KNOX COUNTY LAW DIRECTOR'S OFFICE:

14 Bob Thomas, Director of Knox County Schools

15 Coach Donald Dodgen

16
17 ATTORNEY GENERAL'S OFFICE:

18 Anne Levit

19 Mr. Swaine

20 Executive Director Morrison

21 State Board Members

22 Veda Newman, Law Clerk

R E M O T E A P P E A R A N C E S (Cont'd.)

Lucas Cameron-Vaugh, ACLU

VERITEXT:

Jerry CURran, Concierge Tech

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(Exhibits attached to transcript.)

1 Q. Are you aware that L.E. plays golf?

2 A. No.

3 Q. Are you aware that L.E. played golf on
4 the Farragut municipal team?

5 A. No.

6 Q. And are you aware that, in this case,
7 L.E. alleges that he's unable to try out for the
8 Farragut High School boys' golf team, due to the
9 passing of SB228?

10 A. No.

11 Q. So I'd like to talk to you a little
12 about the athletic department, at Farragut High
13 School.

14 How many different sports teams are
15 there at Farragut High School?

16 A. We have a total of 22.

17 Q. That's quite a few.

18 Are you able to tell me what they are?

19 A. Yes.

20 Q. Could you tell me?

21 A. Football, baseball, softball, tennis
22 boys and girls; softball, volleyball, track and

1 field, boys and girls; soccer, boys and girls;
2 wrestling, boys and girls; cheerleading, dance,
3 swim, boys and girl; Lacrosse, boys and girls.

4 I'm thinking. How many is that?

5 Q. That's 17.

6 A. 17.

7 Q. Cross-country?

8 A. I can't remember -- I'm trying to
9 remember. I'm counting boys and girls. Like my
10 track is boys and girls, which I count as two.
11 Golf -- golf, boys and girls. In my mind, I've
12 gone blank.

13 Q. For the football and baseball, are
14 those boys-only teams?

15 A. We had a young lady on the football
16 team last year, as a freshman.

17 Q. Okay. I'm going to put a pin in there
18 and we'll come back and talk about that.

19 Is baseball a boys-only team?

20 A. Yes.

21 Q. Is softball a girls-only team?

22 A. Yes.

1 A. Yes.

2 Q. And, more generally speaking, on any
3 team that are only girls, do those female
4 players ever get injured while playing?

5 A. Yes.

6 Q. What kind of injuries have you seen
7 girls, who play sports at Farragut High School,
8 sustain while playing sports?

9 A. Ankle injuries, wrist injuries,
10 concussions.

11 Q. So we touched on this briefly but, to
12 your knowledge, last year, there was a female
13 football player; is that correct?

14 A. Yes.

15 Q. And she was a freshman in high school?

16 A. Yes.

17 Q. I suppose football season is about to
18 begin, correct?

19 A. Yes.

20 Q. Do you know if she plans on playing
21 this year?

22 A. Not this year.

1 Q. Do you know why?

2 A. She wanted to concentrate on wrestling
3 and Lacrosse.

4 Q. What position did she play on that
5 football team?

6 A. Offensive line.

7 Q. And can you explain what an offensive
8 line person does?

9 A. Blocks for the quarterback,
10 runningbacks, blocks for passing plays.

11 Q. What do you mean by "blocks?"

12 A. The opponent on the defensive side, you
13 have tackling guard on the defensive side. The
14 offensive lineman would block the guards and try
15 to open a hole up for the running back, or
16 you're going to block the quarterback to keep
17 the defense from getting to the quarterback.

18 Q. What is a player doing with their body
19 when they're blocking?

20 A. Yeah. There's contact, you know, with
21 the shoulder pads, arms, and hands.

22 Q. Does someone who is an offensive

1 lineman often tackle other players?

2 A. Yes.

3 Q. Do they often get tackled themselves?

4 A. Yes.

5 Q. So that would be a high-contact
6 position?

7 A. Yes.

8 Q. By "high contact," I mean a position
9 where you are physically tackling other players
10 and getting tackled; is that right?

11 A. Football is a contact sport.

12 Q. Do football players ever suffer
13 injuries when they're playing football.

14 A. Yes.

15 Q. To your knowledge, have you seen
16 Farragut High School football players sustain
17 injuries?

18 A. Yes.

19 Q. What kind of injuries have they
20 sustained?

21 A. Broken bones, turned ankles, knees,
22 shoulders, and concussions.

1 football?

2 A. Yes.

3 Q. And I asked you about the female
4 offensive line-person from Farragut High School,
5 but I'm going to ask you about the player from
6 Central High school.

7 Are you aware of any reports that the
8 player from Central High School was injured when
9 she played on the boys football team?

10 A. No.

11 Q. I'd like to ask you a couple of
12 questions, now, about golf.

13 Is golf a contact sport?

14 A. No.

15 Q. And how do you define "contact"?

16 A. When two players run into each other.

17 Q. Okay. Does every golf player on the
18 team have the same level of skill?

19 A. I do not know.

20 Q. Or maybe I can ask that question about
21 basketball.

22 When you're coaching a basketball team,

1 Exhibit 5, please.

2 (Off record discussion.)

3 (DODGEN Exhibit No. 5 marked for
4 identification and attached to the transcript.)

5 BY MS. YARBROUGH:

6 Q. Mr. Dodgen, can you see this document?

7 A. Yes. Yes.

8 Q. What is it?

9 A. It's the transgender policy.

10 Q. It's the T, double S, double A or
11 the --

12 A. Yes.

13 Q. -- TMS, double A transgender policy?

14 A. Yes.

15 MS. JOHNSON: Just let her finish her
16 questions.

17 THE WITNESS: I'm sorry.

18 BY MS. YARBROUGH:

19 Q. Again, as an athletic director and
20 former coach, you were required to abide by the
21 T, double S, double A policy that you're
22 viewing, correct?

1 A. Yes. All.

2 Q. And in the first paragraph, it says
3 that:

4 "The T, double S, double A TMS
5 double A allows participation for all
6 students regardless of their -- gender,
7 identity, or expression," right?

8 A. Yes.

9 Q. And it says:

10 "All students should have the
11 opportunity to participate in TSSAA,
12 TMSAA activities in a manner that is
13 consistent with their gender identity,
14 irrespective of the gender listed on
15 the student's record," right?

16 A. Yes.

17 Q. And under the policy, L.E. would have
18 been allowed to try out for the boys' golf team,
19 correct?

20 A. I assume state policy overrules TS
21 double A. I might be wrong.

22 Q. So it's your understanding that the

1 state law overrules TSSAA policy?

2 A. Yes.

3 Q. And that if the state law SB228 did not
4 exist that this policy would apply?

5 MS. BERGMEYER: Object to the form.

6 MS. JOHNSON: Object to the form.

7 THE WITNESS: Yes.

8 BY MS. YARBROUGH:

9 Q. And that if only the TSSAA policy were
10 in effect, that L.E. would be allowed to try out
11 for the boys' golf team, correct?

12 MS. JOHNSON: Object to the form.

13 MS. BERGMEYER: Object to the form.

14 THE WITNESS: Yes.

15 (Off record discussion.)

16 BY MS. YARBROUGH:

17 Q. You testified earlier that in your role
18 as athletic director, you've not directly
19 interacted or you have not coached any
20 transgender students, right?

21 A. Yes.

22 Q. So you, at the time, that this policy

CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC

I, Dawn L. Halcisak, Court Reporter and
Notary Public in and for the State of Maryland,
the officer before whom the foregoing Remote
Deposition was taken, do hereby certify that the
foregoing transcript is a true and correct
record of the testimony given; that said
testimony was taken by me stenographically and
thereafter reduced to typewriting under my
direction and that I am neither counsel for,
related to, nor employed by any of the parties
to this case and have no interest, financial or
otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set
my hand this 23rd day of August, 2022.

My commission expires:
August 4, 2023



NOTARY PUBLIC IN AND FOR THE
STATE OF MARYLAND